



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713

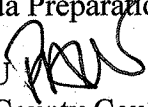
TELEPHONE  
(213) 974-1861  
FACSIMILE  
(213) 229-9924  
TDD  
(213) 633-0901  
E-MAIL  
pwu@counsel.lacounty.gov

MARY C. WICKHAM  
Interim County Counsel

October 1, 2015

TO: PATRICK OGAWA  
Acting Executive Officer  
Board of Supervisors

Attention: Agenda Preparation

FROM: PATRICK A. WU   
Senior Assistant County Counsel  
Executive Office

RE: **Item for the Board of Supervisors' Agenda**  
**County Claims Board Recommendation**  
**Aaron Beierschmitt v. County of Los Angeles, et al.**  
**Los Angeles Superior Court Case No. BC 480 772**  
**(Consolidated with Mark Lewis v. County of Los Angeles**  
**Los Angeles Superior Court Case No. BC 504 042 and**  
**Donald Deltiempo and Andrew Macaluso v. County of**  
**Los Angeles**  
**Los Angeles Superior Court Case No. BC 483 077**

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and the Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary, and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

PAW:cs

Attachments

## Board Agenda

### MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled, Aaron Beierschmitt v. County of Los Angeles, et al. Los Angeles Superior Court Case No. BC 480 772 (Consolidated with Mark Lewis v. County of Los Angeles, Los Angeles Superior Court Case No. BC 504 042 and Donald Deltiempo and Andrew Macaluso v. County of Los Angeles, Los Angeles Superior Court Case No. BC 483 077, in the amount of \$2,499,998 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This lawsuit alleges injuries and civil rights violations arising out of a shooting by an off-duty Sheriff's Deputy.

## **CASE SUMMARY**

### **INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION**

CASE NAME	Aaron Beierschmitt, et al.
CASE NUMBER	BC480772, BC504042, BC483077
COURT	Los Angeles Superior Court
DATE FILED	2/6/2013
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 2,499,998
ATTORNEY FOR PLAINTIFF	Dale Galipo Law Offices of Dale K. Galipo George M. Rosenberg George Rosenberg, APC Mark Geragos Geragos & Geragos
COUNTY COUNSEL ATTORNEY	Edwin Lewis
NATURE OF CASE	Plaintiffs Aaron Beierschmitt, Mark Lewis, Donald Deltiempo and Andrew Macaluso claim their civil rights were violated arising out of a March 26, 2011, shooting by an off-duty Los Angeles County Sheriff's Deputy.  Due to the risks and uncertainties of the litigation, a reasonable settlement at this time will avoid further litigation costs. Therefore, a full and final settlement of the case in the amount of \$2,499,998 is recommended.
PAID ATTORNEY FEES, TO DATE	\$ 174,407
PAID COSTS, TO DATE	\$ 22,801

Case Name: Aaron Beierschmitt v. County of Los Angeles, et al.



## Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	Saturday, March 26, 2011; approximately 1:55 a.m.
	<p><b><u>Aaron Beierschmitt v. County of Los Angeles, et al.</u></b> Summary Corrective Action Plan No. 2015-015</p> <p>On Saturday, March 26, 2011, at approximately 1:55 a.m., an off-duty Los Angeles County deputy sheriff, assigned to the Los Angeles County Sheriff's Department's Temple Station, entered the drive-thru traffic lane of the fast food restaurant located at 230 South Rosemead Boulevard, Pasadena (unincorporated Los Angeles County). The deputy sheriff was driving his personal vehicle and was accompanied by a female companion.</p> <p>After the deputy sheriff entered the drive-thru traffic lane, two of the four men in the vehicle directly behind his vehicle began to yell and make threats directed towards the deputy sheriff and his passenger. The driver and front passenger of the second vehicle exited their vehicle and began to approach the deputy sheriff's vehicle. While still seated in the driver's seat of his vehicle, the deputy sheriff attempted to call 9-1-1, but the call was unsuccessful.</p> <p>As the two men approached his vehicle, the deputy sheriff exited his vehicle with his Department-issued firearm, identified himself several times as a Los Angeles County deputy sheriff, and ordered the men to retreat. The two men, however, ignored his instructions to retreat and continued to approach the deputy sheriff. As the men neared the deputy sheriff, the man nearest the deputy sheriff reached towards his waistband and lunged at him, striking the deputy sheriff on the shoulder.</p> <p>Fearing the man would retrieve a weapon from his waistband or take his gun and shoot him, the deputy sheriff discharged his Department-issued duty weapon, striking the man. The second man, who was behind the first man with his hands concealed, continued his advance towards the deputy sheriff. Believing the second man was also going to retrieve a weapon or take his gun away, the deputy sheriff discharged his Department-issued duty weapon a second time, striking the man.</p> <p>Both men were transported to a local hospital for medical treatment.</p>

County of Los Angeles  
Summary Corrective Action Plan

---

1. Briefly describe the root cause(s) of the claim/lawsuit:

The primary root cause in this incident is the plaintiffs' failure to adhere to the instructions of a deputy sheriff and commit battery upon a peace officer. As a result, the deputy sheriff feared the plaintiffs' were going to disarm him or arm themselves.

A secondary root cause in this incident was the plaintiff's consumption of alcohol over the nearly eight-hour period immediately preceding the incident.

Another secondary root cause in this incident was what would appear to be a mechanical malfunction of the deputy sheriff's personal cellular telephone preventing him from placing an emergent (9-1-1) call to summon help and therefore had to confront the men who threatened him.

2. Briefly describe recommended corrective actions:  
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The Los Angeles County Sheriff's Department had relevant policies and procedures/protocols in effect at the time of the incident.

The Los Angeles County Sheriff's Department's training curriculum addresses the circumstances which occurred in the incident.

This incident was thoroughly investigated by representatives from the Los Angeles County Sheriff's Department's Homicide Bureau. The results of their investigation were presented to representatives from the Office of the Los Angeles County District Attorney. On May 10, 2012, representatives from the Los Angeles County District Attorney's Office concluded that the deputy sheriff acted in lawful self-defense.

The incident was then investigated by representatives from the Los Angeles County Sheriff's Department's Internal Affairs Bureau. On February 14, 2013, the results of the investigation were presented to the members of the Los Angeles County Sheriff's Department's Executive Force Review Committee. The Committee members concluded the use of force was reasonable, necessary, and justified. Furthermore, the members of the committee concluded the deputy sheriff's tactics were within Department training standards.

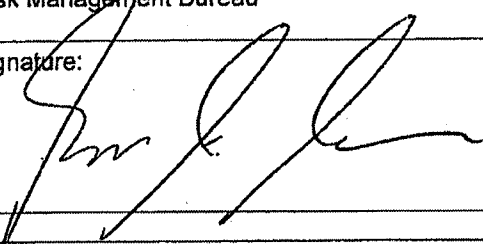
No employee misconduct is suspected, and no systemic issues were identified. Consequently, no personnel-related administrative action was taken, and no other corrective action measures are recommended nor contemplated.

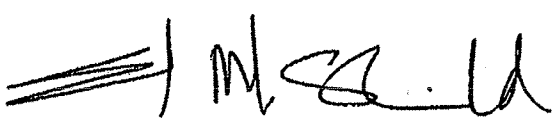
3. Are the corrective actions addressing department-wide system issues?

- ☐ Yes – The corrective actions address department-wide system issues.
- ☒ No – The corrective actions are only applicable to the affected parties.

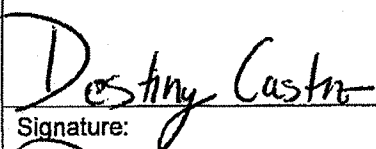
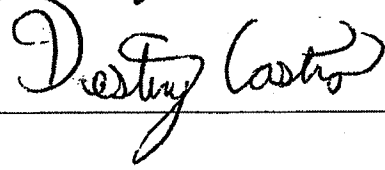
County of Los Angeles  
Summary Corrective Action Plan

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)  Faye A. Adragna, A/Captain Risk Management Bureau	
Signature: 	Date:  08/31/15

Name: (Department Head)  Earl M. Shields, Chief Professional Standards Division	
Signature: 	Date:  08-31-15

**CONTENTS**  
**K. MANNIS**  
**08-31-15**  
**NOTED**

<b>Chief Executive Office Risk Management Inspector General USE ONLY</b>	
Are the corrective actions applicable to other departments within the County?	
<input type="checkbox"/> Yes, the corrective actions potentially have County-wide applicability.	
<input checked="" type="checkbox"/> No, the corrective actions are applicable only to this department.	
Name: (Risk Management Inspector General)  	
Signature: 	Date:  9/10/2015